

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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WILLIAM ESCALERA, JR.,

Plaintiff,

-against-

CITY OF NEW YORK; CORRECTIONAL
OFFICER LOREZANO, #5303,

Defendants.
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ROSLYNN R. MAUSKOPF, United States District Judge.

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.

★ DEC 20 2017 ★

BROOKLYN OFFICE

Rec'd
on 1/16/18
WLT

MEMORANDUM AND ORDER

17-CV-5601 (RRM) (CLP)

Plaintiff William Escalera, Jr., currently incarcerated at the Greene Correctional Facility, filed the instant action *pro se* action pursuant to 42 U.S.C. § 1983. (*See generally* (Compl. Doc. No. 1).) Escalera previously filed a complaint against the same defendants, regarding the incident as alleged in the instant action. *See Escalera v. C.O. Lorezano et al.*, 17-CV-4787 (RRM). As a matter of judicial discretion, “a district court may stay or dismiss a suit that is duplicative of another federal court suit.” *Curtis v. Citibank, N.A.*, 226 F.3d 133, 138 (2d Cir. 2000) (citing *Colo. River Water Conservation Dist. v. United States*, 424 U.S. 800, 817 (1976)).

In this instance, the Court finds no basis for distinguishing this action from the earlier case or for permitting Escalera to pursue two suits against the same defendants arising out of the same set of circumstances and giving rise to nearly identical legal arguments. Accordingly, the instant action is dismissed without prejudice to the litigation pending in *Escalera v. C.O. Lorezano et al.*, 17-CV-4787 (RRM).

The Court certifies pursuant to 28 U.S.C. § 1915 (a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* is denied for the purpose of appeal. *See Coppedge v. United States*, 369 U.S. 438, 444–45 (1962). The Clerk of Court is directed to close this case.

The Superintendent of Greene Correctional Facility is informed that no filing fee is owed on this action and thus should not deduct any fees from Escalera's inmate trust account for this action. The Clerk of Court is directed to mail a copy of this Memorandum and Order to the Superintendent of Greene Correctional facility and to plaintiff *pro se* William Escalera, Jr. at the address listed on the docket, and note the mailing on the docket.

SO ORDERED.

Dated: Brooklyn, New York
December 20, 2017

Roslynn R. Mauskopf

ROSLYNN R. MAUSKOPF
United States District Judge